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NEW DELHI, TUESDAY, DECEMBER 24, 1957/PAUSA 3, 1879

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 19th December 1957/Agrahayana 28, 1879 Saka

S.R.O. 4086.—Whereas election of Shri Pannalal s/o Shri Modaram, resident of Mohalla Jasolai, Bikaner, and Shri Karnisinghji, s/o Shri Sadulsinghji, resident of Lalgah Palace, Bikaner as members of the Lok Sabha from the Bikaner Parliamentary constituency was called in question by an election petition presented under Part VI of the Representation of the People Act, 1951 (43 of 1951) by Shri Roop Chand, C/o Suganchandji, resident of village Kalu, Tehsil Loonkaransar, P.O. Kalu, and Shri Chunilal s/o Shri Badri Ramji, near Songri Well, Bikaner.

And Whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act for the trial of the said election petition, has, in pursuance of the provisions contained in section 111 of the said Act, reported that an application for the withdrawal of the said petition has been granted by the tribunal and that no other person has been substituted as petitioner;

Now, therefore, in pursuance, of the provisions of the said section 111, the Election Commission hereby publishes the said report of the Tribunal.

BEFORE SHRI KARTAR SINGH CAMPBELLPURI, MEMBER, ELECTION TRIBUNAL, JAIPUR

ELECTION PETITION No. 473 OF 1957

1. Roopchand, s/o Suganchandji by caste Nahata, age about 41 years, resident of village Kalu, Tehsil Loonkaransar P. O. Kalu.

2. Chunilal, s/o Sri Badri Ram Ji Pandia by caste Pandia, age about 25 years, resident of Bikaner, near Songri Well, Bikaner—*Petitioners.*

Versus

1. Shri Pannalal, s/o Sri Modaram by caste Barupal (Meghwal), age about 38 years, resident of Mohalla Jasolai, Bikaner.

2. Shri Karnisinghji, s/o Shri Sadulsinghji by caste Rajput, age about 32 years, resident of Lalgah Palace, Bikaner.

3. Shri Kedar Nath, s/o Sri Babu Ram by caste Sharma, age about 38 years, resident of Purani Abadi Sri Ganganagar.

4. Shri Punamchand, s/o Shri Roopa Ram by caste Regar, age about 24 years, resident of Shivbari in the District of Bikaner P.O. Shivbari.

5. Shri Hari Ram s/o Shri Maiya Ram by caste age about 31 years, resident of Padampur, in the District of Sri Ganganagar, P.O. Padampur.

6. Shri Uda Ram, s/o Hcera Ram by caste Meghwal age about 38 years, resident of Pabu Bari Bhambiwarra, Bikaner.

7. Shri Hukma Ram s/o Sri Tiku Ram by caste Meghwal age about 45 years, resident of Mohalla Bhambiwarra, Bikaner—*Respondents*.

REPORT UNDER SECTION 111 OF THE R.P. ACT, DATED 30TH NOVEMBER 1957.

This election petition was filed by two petitioners Roop Chand son of Sughan Chand and Chunnilal son of Sri Badri Ramji, on 9th May 1957 against Sri Pannalal and Shri Karnisinghji, respondents Nos. 1 and 2, who were declared as elected and returned candidates for the reserved and general seats from Bikaner Parliamentary (Double Member) Constituency in March 1957. Other candidates were also impleaded as respondents Nos. 3, 4, 5, 6 and 7. The petitioners assailed the election of respondents as void owing to improper acceptance of the nomination paper of respondent No. 4, Shri Poonamchand, who was alleged not to have qualified himself having been under age at the time of filing of nomination paper. Allegations of corrupt practices and irregularities were also made in the petition; and details and particulars thereof were given in schedule No. B attached with the petition.

The Election petition was duly published in the official Gazette as required by sub-section 1 of section 86 of the R.P. Act of 1951. Notices were also sent to each of the respondents to appear before Shri Brij Mohanlal, District and Sessions Judge of Ganganagar, who was appointed as Member Election Tribunal for the trial of this petition and 16th of July 1957 was fixed as the date for the first appearance of the parties before the Tribunal. On this date the 16th of July 1957, it so transpired that an application dated 6th July 1957 was received through registered post by the Tribunal. This application purports to have been signed by both the petitioners Roop Chand and Chunnilal and is reproduced as below:—

“THE ELECTION TRIBUNAL, GANGANAGAR

ELECTION PETITION No. 473 OF 1957

1. Roop Chand, s/o Sughanchand Ji.
2. Chunnilal, s/o Badri Ramji—*Petitioners*.

Versus

1. Shri Pannalal.
2. Shri Karnisinghji.
3. Shri Kedar Nath.
4. Shri Punam Chand.
5. Shri Hari Ram.
6. Shri Uda Ram.
7. Shri Hukma Ram,—*Respondents*.

The petitioners submit as follows:—

- (i) That the petitioners are unable to obtain any particulars of the allegations in the above cited petition against the respondents Shri Pannalal, Shri Karni Singhji and are not able to substantiate them.
- (ii) That the petitioners are unwilling to proceed with the petition as the petitioners are unable to spend any money and are involved in their own domestic worries and find that it will not be fruitful to proceed with the petition.
- (iii) That the petitioners have no evidence in support of their petition for setting aside the Election.

(iv) That the petitioners pray that the petition be dismissed.

(Sd.) ROOPCHAND NAHATA (in Hindi),

Bikaner, the 6th July 1957.

(Sd.) CHUNNILAL PANDIYA,

Petitioners.

The petitioners did not turn up on 16th July the date fixed for first appearance and of the respondent Shri Pannalal, respondent No. 1 and Shri Radhey Mohanlal, counsel for respondent No. 2 made their appearance before the Tribunal at Ganganagar. Other respondents Nos. 3 to 7 were absent. The case however, on the request of Shri Brij Mohanlal was withdrawn from him by the Election Commission and was entrusted to this Tribunal for trial, and fresh notices were issued to the parties for appearance before me at Japur. The petitioners again did not turn up and respondent No. 2 Shri Karnisinghji only was represented through his counsel Sri Radha Mohanlal. The learned Counsel for respondent No. 2 contended that the application sent by registered post by the petitioners Roopchand and Chunnilal could not be treated as an application for withdrawal and the petition was liable to be dismissed in default with the application of order 8 rule 9 C.P.C. Reliance was placed on some authority but in view of the conflict in the legal precedents and in the light of the specific provisions of sections 109 and 110 of the R.P. Act this Tribunal came to the conclusion that the election petitions are not the concern merely of the parties and involve the right of the entire constituency which is a matter of public importance. The application was accordingly treated as an application of withdrawal as per detailed order dated 21st September, 1957 and notice of withdrawal under section 109(2) of the R.P. Act was also sent for publication for hearing of the application on 19th October, 1957. This notice was duly published in the Official Gazette (Extra Ordinary) of 9th October 1957. The petitioners this time again were absent on 19th October, 1957, the date fixed for hearing of the application and respondent No. 2 was only present through his counsel Shri Chetan Dass. The respondent was called upon to show cause as to whether the application of withdrawal has not been induced by any bargain or consideration. The respondent's counsel asked for time to file an affidavit of respondent No. 2, Sri Karni Singhji in this respect and the case was accordingly adjourned to 30th October 1957. But the affidavit was not filed on 30th October, 1957 and Sri Radha Mohanlal, counsel for respondent No. 2 asked for extension of time which was granted and the case was adjourned to 2nd November 1957 once again.

On 2nd November, 1957 the respondent No. 2 filed an affidavit wherein he states as follows:—

"The petitioners Shri Roop Chand and Shri Chunnilal are not known to me and they have not been induced in any way by me by any bargain or consideration for withdrawing their petition or not to prosecute the same and that he has no hand in the matter of withdrawal."

I see no good reason to doubt the sworn testimony of Shri Karnisinghji coupled with the statement of Sri Pannalal, which was recorded earlier and I was satisfied that the petitioners were not willing to proceed with the petition on account of domestic worries and want of proper evidence in support of the allegations made in the petition for setting aside the election as stated by them in their application. It was moreover noted that both the petitioners absented themselves on the very first Hearing and sent their application for withdrawal. In these circumstances I came to the conclusion that the withdrawal has not been induced by any bargain or consideration and the application of withdrawal was granted directing the petitioners to pay Rs. 100 as costs to each respondents Nos. 1 and 2 as well.

— Notice of the grant of the withdrawal under clause (b) of sub-section 3 of section 110 of the R.P. Act was sent thereupon for publication in the gazette of India through Election Commission, New Delhi and the same has been published in the gazette of India Extraordinary Part 2 section 3 dated New Delhi the 11th November 1957 and as nobody has had in 14 days of the aforesaid publication, applied to be substituted as a petitioner in place of parties withdrawing namely

Suri Roopchand and Shri Chunnilal: I submit this report to the Election Commission under section 111 of the Representation of the People Act that election Petition No. 473 of 1957 (Shri Roopchand Chunnilal *versus* Shri Pannalal Karnisinghji and others) has been allowed to be withdrawn and the petitioners shall pay Rs. 100 as costs to the respondents Nos 1 and 2, Shri Pannalal and Shri Karnisinghji.

KARTAR SINGH CAMPBELLPURI,
Member, Election Tribunal, Jaipur.

The 30th November, 1957.

[No. 82/473/57/14837.]

By Order,

A KRISHNASWAMY AIYANGAR, Secy.